



STATE OF TENNESSEE
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
ANDREW JACKSON BUILDING, 15TH FLOOR
500 DEADERICK STREET
NASHVILLE, TN 37243

TITLE: Personal Funds Management Policy

POLICY #: P - 008-B

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- A. **PURPOSE:** This policy provides clarification regarding the management of personal funds for service recipients enrolled in the Home and Community Based Services (HCBS) waivers for the mentally retarded that are administered by the Department of Intellectual and Developmental Disabilities (DIDD).
- B. **APPLICABILITY:** This policy is applicable to DIDD staff and HCBS waiver providers who have responsibility for personal funds management for service recipients enrolled in the HCBS waivers for the mentally retarded.
- C. **AUTHORITY:** TCA §§ 33-1-302 & 303; Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 34 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively; all requirements regarding policies and procedures related to the Department's federal waiver(s), court orders and/or the Tennessee Bureau of TennCare.
- D. **DEFINITIONS:**
1. **EARNED INCOME** shall mean income derived from active participation in a trade or business, including wages, salary, tips, commissions and bonuses.
 2. **HCBS WAIVER OR WAIVER** shall mean a Home and Community Based Services waiver for persons with mental retardation that includes the following;
 - a. Home and Community Based Services Waiver for the Mentally Retarded (referred to as Intellectual Disabilities) and Developmentally Disabled (#0128.R04) and any amendments thereto;
 - b. Home and Community Based Services Waiver for Persons with Mental Retardation (referred to as Intellectual Disabilities) (#0357.R02) and any amendments thereto; and
 - c. Tennessee Self-Determination Waiver Program (#0427.R01) and any amendments thereto.
 3. **OFFICE SPACE** shall mean a room or significant portion of a room in the service recipient's residence which has been designated for staff use and is not consistently accessible to the service recipient. The presence of a computer, telephone, fax, or other home office equipment in the residence shall not constitute an office space if the service recipient is allowed unrestricted access to the area of the home where such is located and has use of the area and the equipment.

4. **PERSONAL ALLOWANCE** shall mean cash which belongs to the service recipient and is kept in the service recipient's residence, intended for the service recipient's purchase of personal items such as clothing, grooming supplies, entertainment equipment, leisure activities, and refreshments during community activities.
5. **PERSONAL FUNDS** shall mean financial resources, including earned and unearned income, which is used to pay for a service recipient's personal expenses.
6. **REPRESENTATIVE PAYEE** shall mean an individual or organization that receives Social Security and/or Supplemental Security Income (SSI) payments for a service recipient who requires assistance with the management of their personal funds.
7. **UNEARNED INCOME** shall mean all income which is not earned through employment (e.g., interest from savings accounts or bonds; dividends; gifts and inheritances, rents, Social Security benefits, Railroad Retirement benefits, workers' compensation or unemployment compensation).

E. **DESCRIPTION OF POLICY:** This policy is intended to ensure that personal funds are appropriately managed in the best interest of waiver service recipients and that providers are held accountable for such management.

1. Support Plan
 - a. The Individual Support Plan (ISP) shall address the following:
 - (1) The service recipient's capabilities and desires regarding personal funds management;
 - (2) The extent to which personal funds will be managed by the provider agency or the conservator;
 - (3) The service recipient's desire, if applicable, to have a separate bank account rather than an agency-controlled account for personal funds;
 - (4) The service recipient's desire, if applicable, to have a joint bank account and share expenses with the service recipient's spouse;
 - (5) Any training or assistance needed to support the service recipient in managing personal funds or to develop skills needed to increase independence with managing personal funds;
 - (6) Goals and objectives involving use of the service recipient's personal funds; and
 - (7) Any health, safety or exploitation issues that require limitations on the service recipient's access to personal funds and strategies to remove limitations at the earliest possible time.
 - b. The Independent Support Coordinator (ISC) or Case Manager shall provide assistance with identifying and accessing providers of services specified in the ISP and arranging those services to ensure that the service recipient's funds will not be spent when there is another payer source responsible (e.g., private insurance, Medicare).
 - c. Providers shall notify the ISC or Case Manager of changes in the service recipient's personal funds that would require a revision of the ISP, or that would affect implementation of actions required to meet the goals and objectives specified in the ISP.

2. Parties Responsible for Personal Funds Management

- a. Service recipients who are capable of managing their own personal funds shall be supported to the extent needed to do so.
- b. Service recipients who desire greater involvement in the management of their personal funds but lack the necessary skills shall be provided appropriate personal funds management training in accordance with their ISP.
- c. Service recipients who are unable to manage their personal funds may choose another person to act on their behalf (e.g., service recipients receiving Social Security may complete forms to designate a "Representative Payee").
- d. For a service recipient who has been declared incompetent for purposes of money management, the legal guardian or conservator shall be given the choice to manage the service recipient's personal funds, or to choose a person or entity to act on the service recipient's behalf in managing such.
- e. Providers shall not require a service recipient to designate their agency as the "Representative Payee" for any reason, including requiring such designation as a condition in order to provide services to the service recipient.
- f. Providers selected as "Representative Payees" shall not charge the service recipient a fee for funds management.
- g. When a provider is chosen to act as the "Representative Payee", the name of the legal guardian or conservator and the circumstances of the appointment shall be noted on the Social Security Administration application form (Form SSA-11, page 1, item 5) in order for the guardian or conservator to be contacted if necessary.
- h. The provider "Representative Payee" shall ensure that the service recipient's money is used first to meet the service recipient's current needs for food, shelter, medical care not covered by TennCare/Medicaid, Medicare, or private insurance and other items for the service recipient's personal comfort. Any remaining funds may be spent on things that improve the service recipient's daily living conditions.

A provider who serves as the "Representative Payee" for a service recipient shall have written policies and procedures regarding advancement of funds on behalf of service recipients. Providers have the option of not advancing funds to the service recipient. Providers/representative payees may not charge the service recipient interest on the advancement of funds (e.g. loan). If a service recipient's expenses exceed funds available during a month; the provider agrees to pay these costs; and expects repayment, then there must be a signed written agreement between the provider and the service recipient: (1) describing the expenditure and the reason for it; (2) the amount paid by the provider for the benefit of the service recipient; and, (3) the repayment plan. If the service recipient is not competent to enter into the agreement with the provider, there must be a signed written agreement between the provider and the service recipient's conservator or legal representative, if applicable, describing the loan amount and the repayment plan as described above.

Upon identification of a pattern of the service recipient's expenses exceeding funds available for a period of 3 consecutive months, the provider shall contact the service recipient or the service recipient's legal guardian or conservator to develop a plan to ensure that the service recipient's available funds are not exceeded. The provider shall also notify the ISC of the need to develop such a plan.

The provider shall insure that all money held, disbursed, advanced or paid by the provider on behalf of the service recipient is for the service recipient's personal use, benefit or expenses and not for the provider's own use or gain.

- i. The provider "Representative Payee" shall monitor the service recipient's income, expenses and resources, and shall maintain receipts except as indicated herein.
- j. When a service recipient has the ability to manage money for personal spending without the need for staff assistance and such is documented in the ISP, the service recipient may receive money for personal spending. The amount of money received by the service recipient, including any requirements and/or limitations regarding personal spending, shall be specified in the ISP.
- k. When the service recipient receives money to be used for personal spending and signs for the money upon receipt, neither the service recipient nor provider agency will be required to obtain receipts for individual items purchased. The provider must maintain documentation of the service recipient's acceptance of the money. Such documentation must be available for review during surveys or audits and must specify the amount of money received by the service recipient; the date received, and must include the service recipient's signature.

NOTE: The service recipient's signature on the back of a paycheck will not be considered sufficient documentation for auditing purposes.

3. General Requirements for Personal Funds Management

- a. Any conservator who is paid by the DIDD and who has legal responsibility for management of the service recipient's personal funds shall develop and implement written policies and procedures to protect the service recipient's personal funds in accordance with this policy. These policies must follow regulations as required by the Social Security Administration.
- b. Providers and their employees, representatives, subcontractors and paid conservators shall not illegally obtain, misappropriate or otherwise misuse personal funds.

Prohibited practices include, but are not limited to, the following:

- (1) Borrowing personal funds from the service recipient;
- (2) Using a service recipient's personal funds for staff benefit;
- (3) Using a service recipient's personal funds for agency benefit, (i.e., to pay for maintenance/repair of property such as buildings, building grounds, equipment, or appliances owned by the provider, telephone charges other than those attributed to the service recipient's prorated share of basic phone service and the service recipient's personal phone use), or for office space intended for provider use;
- (4) Using a service recipient's funds for the benefit of another person, except:
 - (a) In the case of two service recipients who are married and who have chosen to share expenses as specified in their ISPs; or
 - (b) When the service recipient desires to purchase a gift for a relative or friend for a special occasion (e.g., Christmas, Mother's Day or birthday);
- (5) Using personal funds for any medical supplies, services or equipment covered by TennCare/ Medicaid, Medicare or other health insurance;

- (6) Giving or withholding a service recipient's personal funds as a strategy to change behavior unless specifically reviewed by the regional human rights committee; described in a behavior support plan, approved by a behavior support committee and as specified in the ISP;
- (7) Requiring a service recipient to purchase home liability insurance as a condition of receiving services; and
- (8) Using a service recipient's personal funds for purposes that do not benefit the service recipient, except as specified above.

c. A provider who manages personal funds shall:

- (1) Have written policies regarding how personal funds will be maintained and safeguarded, including limitations on staff access to these funds;
- (2) Manage personal funds in accordance with accepted accounting practices;
- (3) Ensure that individual personal allowances kept in the service recipient's home are maintained separately and are not treated as household petty cash;

NOTE: If a single locked box is used, the personal allowances must be kept in separate labeled envelopes within the box.

- (4) Ensure that records are kept for each service recipient, including:
 - (a) Beginning and ending balances for each month;
 - (b) Documentation of money given to the service recipient for personal spending as described in Section E.2.k. above; and
 - (c) A description of any expenditures (with supporting receipts for expenditures of \$10.00 or more for purchases made by provider staff on behalf of the service recipient);
- (5) Maintain the service recipient's bank account; document monthly reconciliation of bank statements, checks, deposits, and prevent negative bank balances;
- (6) Maintain a separate bank account for all income for a service recipient, if such is specified in the ISP;
- (7) Maintain a separate joint bank account for all income for two service recipients who are legally married, if such is specified in their ISPs;
- (8) Document that insurance policies purchased with the service's personal funds are for the sole benefit of the service recipient and, if married, the service recipient's spouse; and
- (9) Provide an annual report to the service recipient or the service recipient's conservator or legal representative of the service recipient's personal funds being held and disbursed by the provider.

d. The provider shall reimburse the service recipient in a period not to exceed 30 days following the identification of a financial loss to the service recipient caused by the action or inaction of the provider or the provider's employee, representative or subcontractor, including but not limited to:

- (1) Loss of Social Security funds due to the provider's negligence in allowing countable assets to exceed the countable asset limit;
 - (2) Payment of bank fees for insufficient funds resulting from provider negligence;
 - (3) Late payment penalties to utility companies;
 - (4) Loss of funds due to theft or misappropriation by the provider or its employees, representatives, or subcontractors; and
 - (5) Paying expenses that do not directly benefit the service recipient except purchases of gifts for family or friends for special occasions (see Section 3.b.4.(b)).
- e. The provider shall develop and implement adequate accounting procedures for each service recipient's personal funds to assure consistent availability of current information involving:
- (1) The amount of financial resources available to each service recipient for basic living expenses and for personal spending;
 - (2) The total amount of each service recipient's countable assets. For Medicaid funded service recipients, personal assets exceeding maximum resource limits must be reported to the Department of Human Services; and
 - (3) Documentation (e.g., receipts, monthly billings, checkbook ledgers) of expenditures made on behalf of the service recipient, including justification that the purchase was appropriate and in accordance with the service recipient's needs.
- f. Providers licensed by the Department of Mental Health as a Mental Retardation Residential Habilitation Facility or as a Mental Retardation Placement Service provider are responsible for the cost of the service recipient's meals and lodging within the room and board payment. The provider is permitted to apply the amount of the service recipient's food stamps to the total amount spent for food. The provider must maintain receipts to document that the service recipient's food stamps were used for this purpose.
- Providers not meeting the above licensure requirements must maintain individual receipts to document that the service recipient's food stamps were used for the benefit of the service recipient.
- g. A provider shall inventory and appropriately account for all personal funds and personal property in accordance with the following:
- (1) Initial inventories of personal property shall be compiled as of the date the provider began providing services;
 - (2) Consumables (e.g., toothpaste, shampoo) do not have to be included in the personal property inventory;
 - (3) A non-consumable item valued at \$50.00 or more must be included in the personal property inventory;
 - (4) A non-consumable item valued at less than \$50.00 must be included in the personal property inventory if requested by the service recipient or the conservator;

- (5) Inventories of personal property shall be updated in a timely manner (i.e., on the day of the occurrence or the following morning) to indicate personal property removed from or brought into the home, as described above, and must include dated signatures of the individuals who supplied or disposed of the personal property; and
 - (6) Personal fund and personal allowance ledgers shall be updated in a timely manner (i.e., on the day of the occurrence or the following morning) to indicate funds provided to the service recipient by others, including dated signatures of the individuals who supplied the funds.
- h. When a change of providers occurs (e.g., due to provider agency closure), the provider discontinuing services shall transfer the personal property and personal funds of the service recipient in an efficient and timely manner to the receiving provider in accordance with the following:
- (1) Prior to a change of providers by the service recipient, the provider discontinuing services shall reconcile records pertaining to personal funds management (e.g., personal allowance ledgers for petty cash, checkbooks) and shall supply the new provider with a written statement disclosing any debts owed by the service recipient and, if applicable, the repayment plan.
 - (2) Except as otherwise specified by Social Security rules, regulations, and policies, the provider discontinuing services shall forward any personal allowance cash balances to the new provider within five (5) business days. If a business day falls on a state or federal holiday, the following business day will be considered the next business day.
 - (3) The provider discontinuing services shall supply the new provider with an inventory of the service recipient's personal property, including the actual personal property if a change in residence is necessary.
 - (4) The new provider shall conduct an initial inventory of all personal property received and shall immediately notify the former provider and the ISC if there are any discrepancies between personal property received and personal property noted on the former provider's inventory.
 - (5) Except as otherwise specified by Social Security rules, regulations, and policies, the new provider shall complete arrangements to transfer benefit payments (e.g., food stamp payments) within five (5) business days. If the 5th business day falls on a state or federal holiday, transfers must be completed on the following business day.
 - (6) If applicable, the new provider must complete and submit documents necessary to establish the new provider as the "Representative Payee" within thirty (30) calendar days. If a calendar day falls on a state or federal holiday, the following day will be considered the next calendar day.

4. Management of Funds for Service Recipients Receiving Residential Services

- a. Residential Habilitation and Medical Residential Services - For a service recipient who receives Residential Habilitation services or Medical Residential Services and the provider is licensed as a Residential Habilitation facility, the following shall apply:
 - (1) Licensed Residential Habilitation homes which are **not subsidized** by the U.S. Department of Housing and Urban Development (HUD) or the Tennessee Housing Development Agency (THDA);

- (a) If the service recipient's total income excluding food stamps (e.g., combined total of SSI benefits, earned income and railroad retirement benefits) is equal to or exceeds the maximum SSI benefit for the applicable year, the service recipient shall not be charged for room and board which exceeds 80% of the maximum SSI benefit.
- (b) If the service recipient's total income excluding food stamps is less than the maximum SSI benefit for the applicable year, the service recipient shall not be charged for room and board for more than 80% of his or her total income.
- (c) As part of room and board for service recipients under this section, the provider is responsible for furnishing basic supplies such as soap, toilet paper, facial tissues, and paper towels.
- (d) The reimbursement rate for services may not be applied to room and board.

(2) Licensed Residential Habilitation homes which are **subsidized** by the U.S. Department of Housing and Urban Development (HUD) or the Tennessee Housing Development Agency (THDA):

- (a) A provider may establish a reasonable average boarding charge based on documentation of incurred expenses necessary to cover room and board costs over and above the amount of the subsidized rent established by HUD or THDA. The average boarding charge shall be determined based on all of the provider's service recipients residing in HUD or THDA-subsidized homes.
- (b) Each service recipient shall be allowed to retain an amount that is equivalent to at least 20% of the maximum SSI benefit for the applicable year. The provider shall apply the average boarding charge to all residents of HUD or THDA subsidized homes, with the exception of those service recipients for whom application of the full amount of the boarding charge would prevent the service recipient from retaining 20% of the maximum SSI benefit.

b. Family Model Residential Support

- (1) If the service recipient's total income excluding food stamps is equal to or more than the maximum SSI benefit for the applicable year, the service recipient shall not be charged for room and board which exceeds 70% of the maximum SSI benefit.
- (2) If the service recipient's total income excluding food stamps is less than the maximum SSI benefit for the applicable year, the service recipient shall not be charged for room and board payment which exceeds 70% of his or her total income.
- (3) As part of room and board for service recipients under this section, the provider is responsible for furnishing basic supplies such as soap, toilet paper, facial tissues, and paper towels.
- (4) The reimbursement rate for services may not be applied to room and board.

c. For persons who receive Supported Living services, rents and leases shall not exceed the fair market value for other similarly situated properties in the same general location.

- d. In general, the term of rental or lease agreements shall be one (1) year. All leases which exceed one (1) year shall be specified in the ISP and the DIDD Regional office shall approve the rental or lease agreement in writing. Additionally, any lease or rental agreement with a term of less than one (1) year, e.g. month-to-month, shall be approved by the DIDD Regional Office.
- e. Earned income and SSI benefits may be deposited into the same bank account for the service recipient.
- f. Providers shall reimburse the service recipient for 100% of the cost of long distance telephone calls made from the home and for other utility expenses that are attributable to provider agency administrative use.
- g. Restitution for damage to property: The service recipient's personal funds may be used as restitution for damages in accordance with a restitution plan which has been included in the service recipient's ISP and approved by the regional human rights committee:
 - (1) The restitution plan should be individualized based on the service recipient's income, financial obligations, and role in creating the property damage. In the event that multiple parties damage property, each person shall pay restitution in proportion to his/her role in damaging the property.
 - (2) The restitution plan must be approved by the regional human rights committee.
 - (3) A behavior support plan which contains additional restrictive components regarding restitution must be approved by the regional behavior support committee.
 - (4) If restitution regards property destruction, the person's circle of support is encouraged to review the need for additional behavior supports.
 - (5) Service recipients shall not be required to pay restitution for damage caused by normal wear and tear or for the cost of routine maintenance to the dwelling.

5. Personal Allowances

In regard to management of personal allowances the provider shall:

- a. Provide appropriate training to their direct support staff and other staff involved in the management of the service recipient's personal allowances in accordance with the requirements as set forth in this policy;
- b. Allow service recipients to manage their personal allowances in accordance with their approved ISP;
- c. Provide training to service recipients, as appropriate, to help manage their personal allowances;
- d. Ensure that service recipients have access to their personal allowances at all times, unless access limitations have been specified in the ISP;

The service recipient's checkbook does not have to be maintained in the service recipient's home unless so requested by the service recipient or the legal guardian or conservator. If the checkbook is not maintained in the home, the provider shall ensure that the service recipient can access their allowance at all times.

- e. Ensure that personal allowances are used appropriately for purchases that are needed or desired by the service recipient and that they are not allowed to accumulate when there is unmet need;
- f. Ensure that personal allowances are not allowed to accumulate in the home in excess of \$100.00;

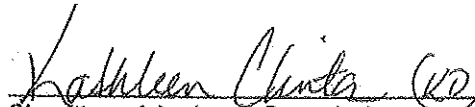
If the ISP specifies that the service recipient desires to save money, the excess shall be deposited in the service recipient's bank account.
- g. Monitor the accumulation of personal allowances to prevent the loss of benefits (e.g., SSI or Medicaid eligibility) due to excessive accumulation;
- h. Maintain receipts for all expenditures of \$10.00 or more for purchases made by provider staff using the service recipient's personal allowance;
- i. Receipts shall not be required for expenditures of less than \$10.00 for routine recreational activities such as movie tickets and refreshments or arcade change;
- j. If personal allowances are used for group purchases, each service recipient should be charged a prorated amount consistent with usage or consumption:
 - (1) For group purchases (e.g., a pizza shared by 3 people), the provider may divide the total cost equally among the purchasing parties;
 - (2) Receipts must be maintained for group purchases of \$15.00 or more.
- k. Maintain a separate record for each service recipient's personal allowance;
- l. Post personal allowance transactions to the personal allowance account in a timely manner (i.e., on the day of the occurrence or, for late evening transactions, the following morning); and
- m. Reconcile all personal allowance accounts monthly.

F. **ATTACHMENTS:** None.

G. **PREVIOUS POLICY:** TennCare Division of Developmental Disability Services Policy DDDS-05 (Personal Funds Management); DMRS Policy P-008 (October 2006); DMRS Policy P-008-A (November 2006).

H. **DATE APPROVED BY TENNCARE:** May 10, 2011

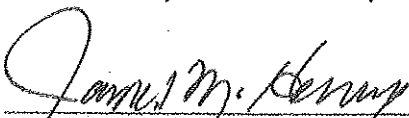
I. **POLICY APPROVAL**



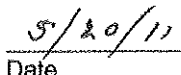
 Signature of Assistant Commissioner
 Office of Policy and Rule Development



 Date



 Signature of Deputy Commissioner
 Department of Intellectual and Developmental Disabilities



 Date